

D/RK  
ORIGINAL

IN THE UNITED STATE DISTRICT  
FOR THE NORTHERN DISTRICT OF  
DALLAS DIVISION

U.S. DISTRICT COURT  
NORTHERN DISTRICT OF TEXAS  
FILED ORIGINAL  
NOV 18 2005  
CLERK, U.S. DISTRICT COURT  
By ACTION Deputy NO.

Don Wesley

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Plaintiff

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v.

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YELLOW TRANSPORTATION,. INC.  
C/o THE FRICK CO.

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Defendant.

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3-05 CV-2266 D

ORIGINAL COMPLAINT AND DEMAND FOR JURY TRIAL

JURISDICTION

1. Jurisdiction of this Court is invoked pursuant to 28 U.S.C. § 1333 (a) (4); 42
2. U.S.C. § 2201 and 2202. This is a suit in equity authorized and instituted pursuant to
3. Title VII of the Civil Rights Act of 1964, as amended, the Civil Rights Act of 1991, and the Civil Rights Act of 1866, 42 U.S.C. § 1981.
4. Plaintiff Don Wesley is a citizen of the United States and a resident of Irving, Texas, Dallas County, Texas. Plaintiff has been subjected to unlawful employment practices committed in the State of Texas, Northern District of Texas, Dallas Division.
5. Defendant, Yellow Freight Transportation Inc. c/o The Frick Co. is a Texas Corporation doing business in the Northern District of Texas, Dallas Division. Defendant
6. Committed discriminatory practices within said district and division. Defendant is an employer within the meaning of 42

U.S.C. § 2000e-(b) in that the Defendant is engaged in an industry affecting commerce and has employed at least 500 persons in each of 20 or more calendar weeks in the current or preceding calendar year.

**PLAINTIFF BASES FOR DISCRIMINATION IS RACIAL, ADVERSE ACTIONS BY COMPANY, DOUBLE STANDARDS WHITE EMPLOYEES VERSE BLACK EMPLOYEES, HARASSMENT AND RETALIATION**

1. This in a proceeding for declaratory, injunctive and other relief to secure the rights of plaintiff under 42 U.S.C. § 2000E, et seq. and 42 U.S.C. § 1981.
2. It is brought to prevent Defendant from maintaining a policy, practice, custom or usage of discrimination against Plaintiff in regard to compensation, terms, conditions and privileges of employment, and seeks compensatory damages and back pay as result of Defendant discriminated against Plaintiff because of his race, adverse actions by Defendant.
3. Plaintiff description in detail of discrimination against him as employees of Defendant, because of his race African American.
4. Plaintiff Don Wesley received a Right to Sue, September 19, 2005 from the Office of Civil Rights (OCR); Plaintiff alleged he was fired without cause. For over a period of time Texas Workforce Commission (TWC) held an investigation in regards to an appeal by the Defendant. On three separate hearings The Texas Workforce Commission favored Wesley. Texas Workforce Commission supporting Wesley, that Defendant fired Wesley against their employment practice. TWC upheld its previous decisions in the conclusion on the last appeal by the

Defendant. Plaintiff alleges that Defendant terminated his employment because of his race Black. Defendant allowed white employees to look at adult X rated movies on their breaks, lunches and training of employees for over a period of time. Plaintiff Wesley time of employment with Defendant for 14 years or more. After the above Plaintiff begin to speak out on discrimination practices, Defendant breached its contract with minorities by using a surveillance camera to terminate Wesley.

On or about February 2005, Plaintiff along with other white employees on their break was watching an adult x-rated movie on Defendant's TV that was damaged through transportation. Defendant uses the TV for employees' recreation during their breaks, lunches and, training. Wesley was signed out by Defendant and terminated for this adverse action by Defendant.

5. After Defendant had fired Plaintiff later came back with theft of company time.
6. Defendant alleged that Plaintiff was terminated because of outrageous conduct.
7. Plaintiff alleged that Defendant denied new employee training to minorities ranging from 1990 until terminated 2005.
8. Plaintiff alleged that Defendant allowed adverse action by white employees by, hanging up a hangman's noose (a rope that was used by slave masters during slavery time), on the East Dock where most minorities worked.
9. Plaintiff alleged that Defendant allowed white employees to write discriminatory statements in the employee bathroom of the workplace.
10. Plaintiff alleged that Defendant allowed white employee's to

destroy minorities' personal property that lead to many police reports.

11. Plaintiff alleged that Defendant re-hired a white employee that called a black employee "NIGGER" after Defendant had terminated his employment.
12. Plaintiff alleged that Defendant denied the re-hiring of black employee after the ruling from Texas Workforce Commission decision that Defendant had no just cause to terminate the black employee.
13. Plaintiff alleged that minorities time cards missing from the designated places, which is near the time clock on both docks. White employees do not encounter missing time cards, these incidents have been reported to all supervisors including (Dave Parker) No corrected actions were made to stop minorities complaints on the time card issues. Parker made the comment if he addressed the time cards issues the white employees will pull a slow down.
14. Plaintiff alleged that Defendant allows white employees more time for breaks and lunch, as well as allow white employees to go at any time. Minorities are only allowed to take breaks at assigned times, an adverse action of discrimination toward minorities in the workplace.
15. Defendant allows this adverse action to take place in the workplace continuously.
16. Plaintiff alleged experiencing these adverse actions from white employees of Yellow Transportation on a daily basis.
17. Plaintiff alleged that Defendant allowed racial discrimination as listed:

18. Time cards tampering
19. Breaks and lunches
20. Double standards by treating minorities differently in workplace
21. Personal property vandalized, tires cut on company property during work hours
22. Minorities filed grievances against white employees for special treatment in the workplace
23. Minority employees terminated not re-hired and white employees terminated for calling black employee "NIGGER" re-hired by the Defendant.
24. Minority employee terminated against Defendant policy. Plaintiff alleged that Defendant accused minorities of theft of company time when video showed white employee on camera during break.
25. Plaintiff alleged Defendant hiring practices and promotions do not allow minorities to advance are have the same opportunity to become full time employees in a timely manner.
26. Plaintiff alleged one or more of the Plaintiff have experienced allegations listed that Defendant allowed such actions to take place during normal work hours in the workplace.
27. Plaintiff has no plan or adequate remedy at law to correct the wrong complaint of herein, and this suit for declaratory and injunctive relief is their only means of securing relief. Further, Plaintiff is now suffering and will continue to suffer irreparable injury from Defendant's policies, practices, customs, and usages as set forth herein.
28. Further, Plaintiff requests the court to award compensatory damages for the mental anguish and emotional stress suffered

by Plaintiff as a direct and proximate cause of the Defendant's actions. Plaintiff further request all and any employment-related benefits of which Defendant has deprived the Plaintiff and is violation of the federal rights identified herein. Further Plaintiff seeks reasonable attorney's fees.

29. All conditions precedent to the filing of this action has been fulfilled.
30. Plaintiff requests a jury trial on all issues.
31. Plaintiff alleged mental stress from the adverse actions of discrimination from defendant.

**PRAYER**

**WHEREFORE**, Plaintiff respectfully prays that this court will to advance this case on the docket and grant the following:

A trial by jury;

A permanent injunction, enjoining Defendant, its agents, employees, and successors from continuing to discriminate against Plaintiff on account of their race;

A declaratory judgment declaring Defendant's past practices herein complained of to be violation of 42 U.S.C. § 1995 and 2000(e):

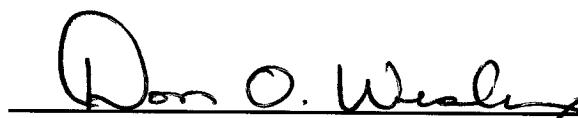
Compensatory damages and any other necessary equitable and legal relief to the Plaintiff named in the Partition, including, judgment and post judgment interest at the legal rate;

Court costs

Attorney's fee; and

Such other and further relief Plaintiff may be justly entitled.

Respectfully submitted,

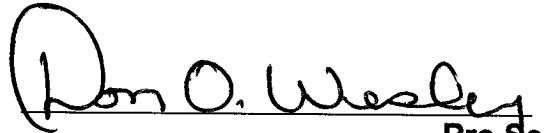
  
Don O. Wesley  
Pro Se  
Don Wesley  
PLAINTIFF  
701 Cowboys Pkwy Apt. 1086  
Irving, TX 75063  
214-485-1437

ORIGINAL

**CERTIFICATE OF SERVICE**

I Don Wesley, Plaintiff do hereby certify that on the 18 day of November, 2005., a true and correct copy of the foregoing pleading was forward to Yellow Transportation Inc., the attorney for (Defendant) at the address of 4500 Irving Blvd, Dallas, Texas 75247.

Dated: 11-19-2005



Pro Se

Don Wesley

PLAINTIFF

**701 Cowboys Pkwy Apt. 1086**

**Irving, TX 75063**

**214-485-1437**

**CIVIL COVER SHEET**

The JS-44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

**I. (a) PLAINTIFFS****ORIGINAL**

Don Wesley

(b) COUNTY OF RESIDENCE OF FIRST LISTED PLAINTIFF  
(EXCEPT IN U.S. PLAINTIFF CASES)

Dallas, TEXAS.

(c) ATTORNEYS (FIRM NAME, ADDRESS, AND TELEPHONE NUMBER)

**RECEIVED**

NOV 18 2005

Pro Se

CLERK, U.S. DISTRICT COURT  
NORTHERN DISTRICT OF TEXAS**DEFENDANTS**

Yellow Transportation, Inc c/o The Frick Co.

Dallas, TEXAS.

COUNTY OF RESIDENCE OF FIRST LISTED DEFENDANT

(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

ATTORNEYS (IF KNOWN)

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**II. BASIS OF JURISDICTION** (PLACE AN "X" IN ONE BOX ONLY)

- |  |  |
|--|--|
| <input type="checkbox"/> 1 U.S. Government Plaintiff | <input type="checkbox"/> 3 Federal Question (U.S. Government Not a Party)          |
| <input type="checkbox"/> 2 U.S. Government Defendant | <input type="checkbox"/> 4 Diversity (Indicate Citizenship of Parties in Item III) |

**III. CITIZENSHIP OF PRINCIPAL PARTIES** (PLACE AN "X" IN ONE BOX FOR PLAINTIFF AND ONE BOX FOR DEFENDANT)

- |   | PTF                        | DEF                        | PTF   | DEF                        |                            |
|---|----------------------------|----------------------------|---|----------------------------|----------------------------|
| Citizen of This State                   | <input type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State     | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State                | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation  | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

**IV. NATURE OF SUIT** (PLACE AN "X" IN ONE BOX ONLY)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance	<b>PERSONAL INJURY</b>	<b>PERSONAL INJURY</b>	<input type="checkbox"/> 422 Appeal 28 USC 158	<input type="checkbox"/> 400 State Reapportionment
<input type="checkbox"/> 120 Marine	<input type="checkbox"/> 310 Airplane	<input type="checkbox"/> 362 Personal Injury — Med. Malpractice	<input type="checkbox"/> 423 Withdrawal 28 USC 157	<input type="checkbox"/> 410 Antitrust
<input type="checkbox"/> 130 Miller Act	<input type="checkbox"/> 315 Airplane Product Liability	<input type="checkbox"/> 365 Personal Injury — Product Liability		<input type="checkbox"/> 430 Banks and Banking
<input type="checkbox"/> 140 Negotiable Instrument	<input type="checkbox"/> 320 Assault, Libel & Slander	<input type="checkbox"/> 368 Asbestos Personal Injury Product Liability		<input type="checkbox"/> 450 Commercial/CC Rates/etc.
<input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment	<input checked="" type="checkbox"/> 330 Federal Employers' Liability			<input type="checkbox"/> 460 Deportation
<input type="checkbox"/> 151 Medicare Act	<input type="checkbox"/> 340 Marine			<input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations
<input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans)	<input type="checkbox"/> 345 Marine Product Liability			<input type="checkbox"/> 510 Selective Service
<input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits	<input type="checkbox"/> 350 Motor Vehicle			<input type="checkbox"/> 550 Securities/Commodities/Exchange
<input type="checkbox"/> 160 Stockholders' Suits	<input type="checkbox"/> 355 Motor Vehicle Product Liability			<input type="checkbox"/> 575 Customer Challenge 12 USC 3410
<input type="checkbox"/> 180 Other Contract	<input type="checkbox"/> 360 Other Personal Injury			<input type="checkbox"/> 581 Agricultural Acts
<input type="checkbox"/> 195 Contract Product Liability				<input type="checkbox"/> 582 Economic Stabilization Act
REAL PROPERTY	CIVIL RIGHTS	PRISONER PETITIONS	SOCIAL SECURITY	<input type="checkbox"/> 583 Environmental Matters
<input type="checkbox"/> 210 Land Condemnation	<input type="checkbox"/> 411 Voting	<input type="checkbox"/> 510 Motions to Vacate Sentence HABEAS CORPUS:	<input type="checkbox"/> 584 Energy Allocation Act	<input type="checkbox"/> 585 Freedom of Information Act
<input type="checkbox"/> 220 Foreclosure	<input type="checkbox"/> 412 Employment	<input type="checkbox"/> 520 General	<input type="checkbox"/> 586 Appeal of Fee Determination Under Equal Access to Justice	<input type="checkbox"/> 587 Constitutionality of State Statutes
<input type="checkbox"/> 230 Rent Lease & Ejectment	<input type="checkbox"/> 413 Housing/ Accommodations	<input type="checkbox"/> 535 Death Penalty	<input type="checkbox"/> 588 Other Statutory Actions	
<input type="checkbox"/> 240 Torts to Land	<input type="checkbox"/> 444 Welfare	<input type="checkbox"/> 540 Mandamus & Other		
<input type="checkbox"/> 245 Tort Product Liability	<input type="checkbox"/> 440 Other Civil Rights	<input type="checkbox"/> 550 Civil Rights		
<input type="checkbox"/> 250 All Other Real Property		<input type="checkbox"/> 555 Prison Condition		
V. ORIGIN	(PLACE AN "X" IN ONE BOX ONLY)			
<input type="checkbox"/> 1 Original Proceeding	<input type="checkbox"/> 2 Removed from State Court	<input type="checkbox"/> 3 Remanded from Appellate Court	<input type="checkbox"/> 4 Reinstated or Reopened	<input type="checkbox"/> 5 Transferred from another district (specify)
				<input type="checkbox"/> 6 Multidistrict Litigation
				<input type="checkbox"/> 7 Magistrate Judgment
VI. CAUSE OF ACTION	(CITE THE U.S. CIVIL STATUTE UNDER WHICH YOU ARE FILING AND WRITE BRIEF STATEMENT OF CAUSE. DO NOT CITE JURISDICTIONAL STATUTES UNLESS DIVERSITY)			

**VII. REQUESTED IN COMPLAINT:**CHECK IF THIS IS A CLASS ACTION  
UNDER F.R.C.P. 23**DEMAND \$**

CHECK YES only if demanded in complaint:

**JURY DEMAND:**  YES  NO**VIII. RELATED CASE(S)** (See Instructions):  
IF ANY

JUDGE \_\_\_\_\_

DOCKET NUMBER \_\_\_\_\_

DATE

SIGNATURE OF ATTORNEY OF RECORD